

EXHIBIT
A

**In the Superior Court of the State of Arizona
In and For the County of Greenlee**

Plaintiff's Attorney:

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Plaintiff:

David Proctor

Defendant:

Riley Industrial Services, Inc.
2615 San Juan Blvd
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Discovery Tier t2

Case Category: Other Civil Case Categories
Case Subcategory: Employment Dispute - Other

Person/Attorney Filing: Joshua W Carden
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[] Representing Self, Without an Attorney
(If Attorney) State Bar Number: 021698, Issuing State: AZ

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF GREENLEE

David Proctor

Plaintiff(s),

Case No. S0600CV202200001

v.

Riley Industrial Services, Inc.

SUMMONS

Defendant(s).

To: Riley Industrial Services, Inc.

WARNING: THIS AN OFFICIAL DOCUMENT FROM THE COURT THAT AFFECTS YOUR RIGHTS. READ THIS SUMMONS CAREFULLY. IF YOU DO NOT UNDERSTAND IT, CONTACT AN ATTORNEY FOR LEGAL ADVICE.

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers were served on you with this Summons.
2. If you do not want a judgment taken against you without your input, you must file an Answer in writing with the Court, and you must pay the required filing fee. To file your Answer, take or send the papers to Clerk of the Superior Court, 223 5th Street, Clifton, Arizona 85533 or electronically file your Answer through one of Arizona's approved electronic filing systems at <http://www.azcourts.gov/efilinginformation>.
Mail a copy of the Answer to the other party, the Plaintiff, at the address listed on the top of this Summons.
Note: If you do not file electronically you will not have electronic access to the documents in this case.
3. If this Summons and the other court papers were served on you within the State of Arizona, your Answer must be filed within TWENTY (20) CALENDAR DAYS from the date of service, not counting the day of service. If this Summons and the other court papers were served on you outside the State of Arizona, your Answer must be filed within THIRTY (30) CALENDAR DAYS from the date of service, not counting the day of service.

Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding.

GIVEN under my hand and the Seal of the Superior Court of the State of Arizona in and for the County of GREENLEE

SIGNED AND SEALED this date: *February 7, 2022*

Madeline Montoya
Clerk of Superior Court

By: *LSTACY*
Deputy Clerk



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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF GREENLEE

David Proctor
Plaintiff(s),
v.
Riley Industrial Services, Inc.
Defendant(s).

Case No.

**CERTIFICATE OF
COMPULSORY ARBITRATION**

I certify that I am aware of the dollar limits and any other limitations set forth by the Local Rules of Practice for the Greenlee County Superior Court, and I further certify that this case IS NOT subject to compulsory arbitration, as provided by Rules 72 through 77 of the Arizona Rules of Civil Procedure.

RESPECTFULLY SUBMITTED this

By: Joshua W Carden /s/
Plaintiff/Attorney for Plaintiff

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LTD
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STATE OF ARIZONA

GREENLEE COUNTY SUPERIOR COURT

DAVID PROCTOR,

Plaintiff,

v.

RILEY INDUSTRIAL SERVICES, INC.,

Defendant.

ORIGINAL COMPLAINT

Plaintiff David Proctor, by and through undersigned counsel, for his Complaint against Defendant Riley Industrial Services, Inc. alleges as follows:

NATURE OF THE CASE

1. Plaintiff David Proctor brings this action against Defendant for its violations of the Arizona Paid Sick Time law, A.R.S. §§ 23-371, *et seq.*, including wrongful termination

PARTIES

2. Plaintiff David Proctor, an unmarried individual, was at all relevant times herein a resident of Greenlee County, Arizona, and an “employee” of Riley Industrial Services, Inc. within the meaning and purposes of all relevant statutes at all times material to this action.

3. Defendant Riley Industrial Services, Inc. (“Riley”) is a New Mexico corporation, at all relevant times conducting its business in Greenlee County, Arizona.



1 4. Riley was an “employer” of Plaintiff within the meaning and purposes of all relevant
2 statutes at all times material to this action.

3 5. Defendant employs more than 300 people.

4 6. At all times pertinent to this Complaint, Defendant’s managerial employees were
5 acting within the course and scope of their employment with Defendant; and as a result thereof,
6 Defendant are responsible and liability is imputed for the acts and omissions of their managerial
7 employees, as alleged herein, under the principles of *respondeat superior*, agency, and/or other
8 applicable law.

9 **JURISDICTION AND VENUE**

10 7. This Court has jurisdiction to hear and determine this action and to grant the relief
11 requested pursuant to article 6 § 14(1) of the Arizona Constitution. Venue is proper in this Court
12 as all acts alleged herein occurred in Greenlee County, Arizona.

13 **ALLEGATIONS COMMON TO ALL CLAIMS**

14 8. Riley is a large provider of industrial services, with offices in multiple states.

15 9. Riley employed Mr. Proctor as a Technician beginning May 2019.

16 10. His manager was Sterling Walker.

17 11. In or around March 2020, Mr. Proctor notified Mr. Walker that his fiancé (with
18 whom he was living in Greenlee) was disabled and pregnant with his child, and that he was their
19 primary caretaker.

20 12. Mr. Proctor informed Mr. Walker that, due to his fiancé’s disability and pregnancy,
21 he would be required to transport them to and attend doctor’s appointments critical to her health
22 and the baby’s health occurring every few weeks.

23 13. Mr. Walker initially agreed to allow Mr. Proctor to attend these appointments and
24 suggested that he limit these appointments to Fridays.

25 14. At no time did Mr. Walker suggest or permit Mr. Proctor the use of paid sick time
26 to cover these appointments.

27 15. Fridays were ordinarily not a workday for Mr. Proctor.

28 16. Mr. Proctor agreed to limit the appointments to Fridays.



1 17. Mr. Proctor attended several such appointments without a problem.

2 18. On or about August 18, 2020, Mr. Proctor suffered extreme dehydration that
3 incapacitated him while at work.

4 19. His bout of dehydration caused Mr. Walker to send him away from the job site and
5 seek medical treatment.

6 20. Upon information and belief, Mr. Walker was frustrated with Mr. Proctor over
7 missing work due to his illness.

8 21. Mr. Proctor sought emergency medical treatment and missed the remainder of his
9 work that day, but returned on August 19, 2020.

10 22. At no time did Mr. Walker suggest or permit Mr. Proctor the use of paid sick time
11 to cover his missing hours from August 18, 2020.

12 23. Then, on August 19, 2020 (Wednesday); Mr. Walker notified Mr. Proctor that he
13 had been selected to go on an overnight out of town assignment beginning Thursday, August 20,
14 2020 and continuing through Friday, August 21, 2020.

15 24. Mr. Proctor informed Mr. Walker that his pregnant fiancé and unborn child had a
16 critical healthcare appointment that Friday that required him to transport them and attend – as he
17 had several times previously.

18 25. Mr. Proctor also notified Mr. Walker that there were several other Technicians that
19 could travel in his place to perform the assignment and announced his intention to keep the
20 medical appointment.

21 26. Mr. Walker responded and said “well, that’s pretty f*cking unfortunate” or words
22 to that effect.

23 27. On August 20, 2020, Riley terminated Mr. Proctor.

24 28. Mr. Proctor protested his termination to Mr. Walker, reminding Mr. Walker that he
25 was abiding by the request to schedule medical appointments for Fridays.

26 29. Walker responded saying “I am just not going to deal with it anymore” or words to
27 that effect.

28 30. Riley did not permit Mr. Proctor to use earned paid sick time for his family’s



1 appointments or for his own need to seek medical treatment on August 18, 2020.

2 31. Upon information and belief, Mr. Proctor was terminated because of his right to use
3 and his potential actual use of earned paid sick time to cover his medical-related absences.

4 32. Upon information and belief, Defendant has failed to post the required notices to
5 employees under Arizona's Paid Sick Time Law.

6 **Procedural History**

7 33. This case was originally filed with companion federal claims in the U.S. District
8 Court for the District of Arizona (4:21-cv-00306-JGZ).

9 34. Pursuant to the Defendant's Rule 12 Motion to Dismiss the federal claims, the
10 Court dismissed the federal claims (a decision being appealed), and then declined to exercise
11 pendent jurisdiction over the remaining state law claim described herein.

12 35. This case is being filed within the 30-day period described in 28 U.S.C. § 1367(d).

13 36. All conditions precedent to the filing of this lawsuit have occurred or been satisfied.

14 **COUNT ONE - VIOLATION OF ARIZONA PAID SICK TIME LAW**

15 37. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

16 38. Arizona has adopted a Paid Sick Time law, A.R.S. §§ 23-371, *et seq.*

17 39. A.R.S. § 23-364(B) states:

18 No employer or other person shall discriminate or subject any person to retaliation
19 for asserting any claim or right under this article, for assisting any other person in
20 doing so, or for informing any person about their rights. Taking adverse action
21 against a person within ninety days of a person's engaging in the foregoing activities
22 shall raise a presumption that such action was retaliation, which may be rebutted by
clear and convincing evidence that such action was taken for other permissible
reasons.

23 40. Defendant violated A.R.S. § 23-364 as described herein, by terminating Plaintiff for
24 asserting and utilizing his right to take medical leave on behalf of himself, his disabled pregnant
25 fiancé and his unborn child – even temporarily - and after attending medical appointments and
26 shortly prior to taking that leave in lieu of a work assignment.

27 41. Additionally, upon information and belief, Defendant failed to provide notice of
28 Plaintiff's rights under A.R.S. 23-364 as required by law.



1 amount to be determined by enforcement of the statutes herein;

2 G. Awarding Plaintiff pre- and post-judgment interest, the costs of this action, and reasonable
3 attorneys' fees as provided by the statutes providing the causes of action cited herein; and

4 H. Granting such other and further relief, including equitable relief authorized by the cited
5 statutes, as this Court deems necessary and proper.

6 Respectfully submitted on this 7th day of February, 2022,

7 CARDEN LIVESAY, LTD.

8 By: s/Joshua W. Carden

9 Joshua W. Carden

10 *Attorneys for Plaintiff*

